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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,222	07/14/2003	Leonid Pavlov		4412

7590 11/24/2004

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EXAMINER

PIHULIC, DANIEL T

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,222

Applicant(s)

PAVLOV ET AL.

Examiner

Daniel Pihulic

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application in the first sentence of the specification such as:

"This application claims the benefit of U.S. Provisional Application No. 60/396,995, filed 07/22/2002"

(see 37 CFR 1.78).

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

3. This application does not contain an abstract of the disclosure in compliance with 37 CFR 1.72(b). An abstract with less than 151 words on a separate sheet is required.

4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the outside" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the constant primary value" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the every segment" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the every subsequent step" in line 1. There is insufficient antecedent basis for this limitation in the claim. Applicant may have intended claim 4 to depend from claim 3 instead of claim 2.

Claim 4 recites the limitation "the search area" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the multiple recurrences" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the preliminary recording" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 3 and 7 are rejected for depending from the aforementioned rejected parent claims.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Menezes. The Menezes reference discloses the utilization of a method for acoustic attracting fish to a desired location, said method comprising: multi-step transmission of attracting sounds (see Fig. 4 and the abstract) into a body of water as recited in claim 1. With regards to claim 7, the Menezes reference discloses the utilization of transmitted sounds are broadcasted with a significant amplitude of a sound in a pulsing operation (see Figures 1 and 2).

7. Claims 2-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Claims 8-10 are allowed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Pihulic whose telephone number is 703-306-4168. The examiner can normally be reached on Monday through Thursday from 6

a.m. to 4 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza, can be reached on 703-306-4171.


The fax phone numbers for the organization where this application or proceeding is assigned are:

703-872-9306 for official responses, and

703-746-3847 for unofficial communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel Pihulic
Primary Examiner
Art Unit 3662